

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION**

MARIAH NORTON,

Plaintiff,

v.

1863 PAC, LTD., et al.,

Defendants.

Case No.: 3:18-CV-173

Judge Gina M. Groh

DEFENDANT 1863 PAC, LTD.’S UNOPPOSED MOTION TO STAY DISCOVERY

Defendant 1863 PAC, Ltd. (“1863 PAC”) moves for a discovery stay pending resolution of 1863 PAC’s Motion to Dismiss (Doc. 14). Given the dispositive nature of the Motion, and in the interest of efficiency and economy, 1863 PAC submits a discovery stay is warranted. 1863 PAC’s counsel has conferred with Plaintiff’s counsel, and Plaintiff does not oppose a stay.

A trial court “has broad inherent power to stay discovery until preliminary issues can be settled which may be dispositive of some important aspect of the case.” *Simpson v. Specialty Retail Concepts, Inc.*, 121 F.R.D. 261, 263 (M.D.N.C. 1988) (citing *Petrus v. Bowen*, 833 F.2d 581, 583 (5th Cir. 1987)). 1863 PAC’s Motion to Dismiss seeks dismissal of the Amended Complaint and thus has the potential to be dispositive of the entire case, not merely an “important aspect.” *Simpson*, 121 F.R.D. at 263. If the Amended Complaint is dismissed, then any discovery conducted in the interim, and the time and expenses involved, would be for naught. A discovery stay, however, could obviate the need for the parties to incur these costs.

Given the circumstances, 1863 PAC moves for a stay of discovery pending resolution of 1863 PAC’s Motion to Dismiss. Simultaneously with this Motion, the parties filed their Rule 26(f) Report of the Parties. The parties filed the Report in accordance with the Court’s First Order and Notice Regarding Discovery and Scheduling Conference. (Doc. 20). If a discovery stay is granted,

the parties would agree to submit a revised Report within 14 days of the Court's ruling on the Motion to Dismiss.

Respectfully submitted,

s/ Joseph M. Ward

Joseph M. Ward (WV Bar No. 9733)

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2019 a copy of the foregoing Motion to Stay Discovery was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

s/ Joseph M. Ward

Joseph M. Ward (WV Bar No. 9733)